

3.4.2024

A9-0422/ 001-035

## **AMENDMENTS 001-035**

by the Committee on Transport and Tourism

### **Report**

**Caroline Nagtegaal**

**A9-0422/2023**

Amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

Proposal for a directive (COM(2023)0270 – C9-0189/2023 – 2023/0164(COD))

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### **Amendment 1**

#### **Proposal for a directive**

##### **Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) In this regard, the Union, in line with its international commitments related to climate change, should continue exerting its leadership in a sector regulated both at European and international level.***

### **Amendment 2**

#### **Proposal for a directive**

##### **Recital 7**

*Text proposed by the Commission*

*Amendment*

(7) Fishing vessels less than 15 metres in length are at present excluded from the scope of Directive 2009/18/EC, therefore the conduct of maritime accident investigations involving such fishing

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vessels is non-systematic and non-harmonised. Such vessels are more prone to capsizing and members of the crew falling overboard is relatively common. Therefore, there is a need to protect those fishing vessels, their crew and the environment by introducing **a** preliminary assessment of very serious marine casualties involving fishing vessels less than 15 metres long to determine whether the authorities should open a safety investigation.

vessels is non-systematic and non-harmonised. Such vessels are more prone to capsizing and members of the crew falling overboard is relatively common. Therefore, there is a need to protect those fishing vessels, their crew and the environment by introducing preliminary assessment of very serious marine casualties involving fishing vessels less than 15 metres long to determine whether the authorities should open a safety investigation, ***without creating additional obligations for national authorities to start such a safety investigation. This measure is expected to have a significant positive impact on the number of lives saved at sea and injuries avoided, protecting in particular the lives and health of European fishers.***

### Amendment 3

#### Proposal for a directive Recital 10 a (new)

*Text proposed by the Commission*

*Amendment*

***(10a) It is important to highlight that, whilst seafarers, fishers and port workers play a critical role in the management and implementation of safe operations, lessons learned from accidents involving them still have to be implemented. The transparency of accident investigation process should therefore be further developed in collaboration with the industry and social partners.***

### Amendment 4

#### Proposal for a directive Recital 10 b (new)

*Text proposed by the Commission*

*Amendment*

***(10b) In addition to the measures provided for by this Directive, further initiatives***

*should be considered in order to deal with working conditions and fatigue since incidents including seafarers, fishers and port workers can lead to maritime accidents and loss of lives.*

## Amendment 5

### Proposal for a directive Recital 10 c (new)

*Text proposed by the Commission*

*Amendment*

*(10c) Consideration should be given to the working and living conditions of the crew in case of accidents, whether the accident is related to human factors. Whenever necessary, investigators should check whether the crew's working conditions, in particular working and rest times, might have been the cause of the accident in question, in line with the relevant IMO and ILO legislation.*

## Amendment 6

### Proposal for a directive Recital 11

*Text proposed by the Commission*

*Amendment*

(11) The available staff, as well as the operational resources of the Member States' marine safety investigation authorities vary distinctly, resulting in ineffective and inconsistent reporting on and investigation of marine casualties. Therefore, the Commission, with the assistance of the European Maritime Safety Agency (EMSA) should provide highly specialised analytical support during an individual investigation (soft skills), as well as analytical tools and equipment (hardware).

(11) The available staff, as well as the operational resources of the Member States' marine safety investigation authorities vary distinctly, resulting in ineffective and inconsistent reporting on and investigation of marine casualties. Therefore, the Commission, with the assistance of the European Maritime Safety Agency (EMSA) should provide highly specialised analytical support during an individual investigation (soft skills), as well as analytical tools and equipment (hardware). ***Furthermore, cooperation and mutual assistance between Member States in safety investigations should continue to be encouraged and supported, particularly***

*in view of new maritime safety challenges and the need to report compliance with environmental, social, public health and labour law standards, safety on board ships calling at EU ports for both seafarers and dockworkers, with a special focus on the needs for female workers.*

## Amendment 7

### Proposal for a directive Recital 12

*Text proposed by the Commission*

(12) In light of what has been stated, EMSA should organise **trainings** on specific techniques and on new developments and technologies which can be relevant for accident **investigation** in the future. Such training should focus, among others, on renewable and low carbon fuels, which are particularly relevant in view of the “Fit for 55 package”, **and** automation, as well as on the General Data Protection Regulation (GDPR) rules.

*Amendment*

(12) In light of what has been stated, EMSA should organise **regular training sessions and certification programmes** on specific techniques and on new developments and technologies which can be relevant for accident **investigations** in the future. **New technology can play a role in the decarbonisation of the industry but the way vessels and crews interact with technology can also be a factor in new unknown types of incidents.** Such training should focus, among others, on renewable and low carbon fuels, which are particularly relevant in view of the “Fit for 55 package”, automation **and autonomous shipping**, as well as on the General Data Protection Regulation (GDPR) rules. **This will contribute to the collection of more complete data on accidents and injuries aboard those vessels and to improving the health and safety of the seafarers and fishermen working on them.**

## Amendment 8

### Proposal for a directive Recital 13 a (new)

*Text proposed by the Commission*

*Amendment*

**(13a) The Commission and EMSA should explore the possibility and cost-benefit of**

*developing and operating advanced track and trace systems for containers, with the goal to locate and limit container loss at sea.*

## Amendment 9

### Proposal for a directive

#### Recital 14

*Text proposed by the Commission*

(14) In order to ensure uniform conditions for the implementation of the provisions of this Directive regarding the ***list of IMO texts in its scope***, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(24)</sup>.

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<sup>24</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

## Amendment 10

### Proposal for a directive

#### Recital 14 a (new)

*Text proposed by the Commission*

*Amendment*

(14) In order to ensure uniform conditions for the implementation of the provisions of this Directive regarding the ***adaptation of the IMO Guidelines to assist investigators in the implementation of the Casualty Investigation Code***, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(24)</sup>.

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<sup>24</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

***(14a) In order to ensure that this Directive continues to be up-to-date, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending***

*non-essential elements of this Directive by updating the definitions and Annexes in order to align them with changes to the relevant IMO instruments, as well as to update the references made to the relevant IMO instruments. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making\*. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*

## Amendment 11

### Proposal for a directive Recital 15

*Text proposed by the Commission*

(15) In view of the full monitoring cycle of visits to Member States by EMSA to monitor the implementation of this Directive, the Commission should evaluate the implementation of this Directive no later than [**ten** years after its date of entry into force referred to in Article 23)] **and** report to the European Parliament and the Council **thereon**. Member States should cooperate with the Commission to gather all the information necessary for the evaluation.

*Amendment*

(15) In view of the full monitoring cycle of visits to Member States by EMSA to monitor the implementation of this Directive, the Commission should evaluate the implementation of this Directive no later than [**five** years after its date of entry into force referred to in Article 23)], report to the European Parliament and the Council, **and, if necessary, propose further measures in the light of the recommendations set out therein**. Member States should **closely** cooperate with the Commission to gather all the information necessary for the evaluation.

## Amendment 12

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

In the case of a fishing vessel of less than 15 metres in length, the investigation authority shall carry out a preliminary assessment of the very serious marine casualty to determine whether or not to conduct a safety investigation.

*Amendment*

In the case of a fishing vessel of less than 15 metres in length, the investigation authority shall ***without delay and no later than one month after its occurrence***, carry out a preliminary assessment of the very serious marine casualty to determine whether or not to conduct a safety investigation.

**Amendment 13**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

Where the investigation authority decides not to undertake a safety investigation of **a** very serious marine **casualty** involving a fishing vessel of less than 15 metres the reasons for that decision shall be recorded and notified in accordance with Article 17(3).

*Amendment*

Where the investigation authority decides not to undertake a safety investigation of very serious marine **casualties** involving a fishing vessel of less than 15 metres, the reasons for that decision shall be recorded and notified in accordance with Article 17(3) ***without delay and no later than one month after its occurrence***.

**Amendment 14**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 5

*Text proposed by the Commission*

5. When carrying out safety investigations, the investigation authority shall follow the IMO Guidelines to assist investigators in the implementation of the

*Amendment*

5. When carrying out safety investigations, the investigation authority shall follow the IMO Guidelines to assist investigators in the implementation of the

Casualty Investigation Code. Investigators may depart from these guidelines where this can be justified as necessary, in their professional judgement to achieve the aims of the investigation. The Commission may adapt the guidelines for the purposes of this Directive, taking into account any relevant lessons drawn from safety investigations, in accordance with the procedure referred to in Article 19.

Casualty Investigation Code. Investigators may depart from these guidelines where this can be justified as necessary, in their professional judgement to achieve the aims of the investigation. The Commission may ***adopt implementing acts*** to adapt the guidelines for the purposes of this Directive, taking into account any relevant lessons drawn from safety investigations. ***Those implementing acts shall be adopted*** in accordance with the ***examination*** procedure referred to in Article 19.

## Amendment 15

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5

Directive 2009/18/EC

Article 5 – paragraph 6

#### *Text proposed by the Commission*

6. When deciding if a marine casualty or incident occurring alongside, moored or in dock, involving shore or port workers, occurred “directly in connection with the operations of a ship” and therefore is subject to a safety investigation, particular consideration shall be given to the involvement and relevance ***of the ship’s structure, equipment, procedures, crew and ship management*** to the activity being undertaken.

#### *Amendment*

6. When deciding if a marine casualty or incident occurring alongside, moored or in dock, involving shore or port workers, occurred “directly in connection with the operations of a ship” and therefore is subject to a safety investigation, particular consideration shall be given to the involvement and relevance to the activity being undertaken, ***including for all kind of cargo, of the ship’s structure, the general condition of the vessel, its seaworthiness, its safety compliance, its equipment, its procedures, the working conditions of its crew and the ship management.***

## Amendment 16

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5

Directive 2009/18/EC

Article 5 – paragraph 7

#### *Text proposed by the Commission*

7. A safety investigation shall be started

#### *Amendment*

7. A safety investigation shall be started



without delay after the marine casualty or incident occurs and, in any event, no later than **two months** after its occurrence.

without delay after the marine casualty or incident occurs and, in any event, no later than **one month** after its occurrence.

## **Amendment 17**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

***7a. The investigation authority shall make every effort to conclude an investigation within 12 months of the date of the marine casualty or incident. If the investigation cannot be concluded within 12 months, and until it is concluded, the investigation authority shall publish a report at least every year on the anniversary of the date of the marine casualty or incident, detailing the progress of the investigation and any safety issues raised.***

## **Amendment 18**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 7**

Directive 2009/18/EC

Article 7 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

The conduct of parallel safety investigations into the same marine casualty or incident shall be strictly limited to exceptional cases. In such cases, Member States shall notify the Commission of the reasons for conducting such parallel investigations. Member States conducting parallel safety investigations shall cooperate with each other. In particular, the investigation authorities

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involved shall exchange *any pertinent* information gathered in the course of their respective investigations, in particular in order to reach, as far as possible, shared conclusions.

involved shall exchange information gathered in the course of their respective investigations *in a timely manner*, in particular in order to reach, as far as possible, shared conclusions.

(32009L0018)

## Amendment 19

### Proposal for a directive

#### Article 1 – paragraph 1 – point 8

Directive 2009/18/EC

Article 8 – paragraph 1 – subparagraph 3

#### *Text proposed by the Commission*

In order to carry out a safety investigation in an unbiased manner, the investigation authority shall be independent in its organisation, legal structure and decision-making of any party whose interests could conflict with the task entrusted to it.

#### *Amendment*

In order to carry out a safety investigation in an unbiased manner *and in order to avoid any conflict of interests*, the investigation authority shall be independent in its organisation, legal structure and decision-making of any party whose interests could conflict with the task entrusted to it.

## Amendment 20

### Proposal for a directive

#### Article 1 – paragraph 1 – point 8

Directive 2009/18/EC

Article 8 – paragraph 3

#### *Text proposed by the Commission*

3. The activities entrusted to the investigation authority *may* be extended to the gathering and analysis of data relating to maritime safety, in particular for prevention purposes, insofar as these activities do not affect its independence or entail responsibility in regulatory, administrative or standardisation matters.

#### *Amendment*

3. The activities entrusted to the investigation authority *shall* be extended to *include* the gathering and analysis, *and processing*, of data relating to maritime safety, in particular for prevention purposes, insofar as these activities do not affect its independence or entail responsibility in regulatory, administrative or standardisation matters.

## Amendment 21

### Proposal for a directive

#### Article 1 – paragraph 1 – point 8

Directive 2009/18/EC

Article 8 – paragraph 4 – introductory part

#### *Text proposed by the Commission*

4. Member States, acting in the framework of their respective legal systems, shall ensure that the investigators of its investigation authority, or of any other investigation authority to which it has delegated the task of marine safety investigation, where appropriate in collaboration with the authorities responsible for the judicial inquiry, be provided with any information pertinent to the conduct of the marine safety investigation and therefore be authorised to:

#### *Amendment*

4. Member States, acting in the framework of their respective legal systems, shall ensure that the investigators of its investigation authority, or of any other investigation authority to which it has delegated the task of marine safety investigation, where appropriate in collaboration with the authorities responsible for the judicial inquiry, be provided with any information **and technological means** pertinent to the conduct of the marine safety investigation and therefore be authorised to:

## Amendment 22

### Proposal for a directive

#### Article 1 – paragraph 1 – point 8

Directive 2009/18/EC

Article 8 – paragraph 7 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***7a. At the request of the responsible national authorities, the Commission and the European Maritime Safety Agency (EMSA) shall assist the responsible national authorities, in accordance with Article 17a(2) Furthermore, both the Commission and EMSA shall assist accident investigation authorities in the implementation of harmonised EU wide quality management systems and their systematic application.***

## Amendment 23

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 11**  
Directive 2009/18/EC  
Article 14 – paragraph 1

*Text proposed by the Commission*

1. Safety investigations carried out under this Directive shall result in a published report presented in a format defined by the competent investigation authority and in accordance with the relevant sections of Annex I.

*Amendment*

1. Safety investigations carried out under this Directive shall result in a published report presented in a format defined by the competent investigation authority and in accordance with the relevant sections of Annex I. ***When the report concerns a fishing vessel, it shall also contain information on the type of fisheries it conducted at the time of the accident.***

**Amendment 24**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 11**  
Directive 2009/18/EC  
Article 14 – paragraph 2

*Text proposed by the Commission*

2. Investigation authorities shall make every effort to make the report referred to in paragraph 1, including its conclusions and any possible recommendations, available to the public, and especially to the maritime sector, within 12 months of the date of the casualty. If it is not possible to produce the final report within that time, an interim report shall be published within 12 months of the date of the casualty.

*Amendment*

2. Investigation authorities shall make every effort to make the report referred to in paragraph 1, including its conclusions and any possible recommendations, available, ***where possible, to the victims of accidents and their close relatives***, to the public, and especially to the maritime ***and fishing*** sector, within 12 months of the date of the casualty. If it is not possible to produce the final report within that time, an interim report shall be published within 12 months of the date of the casualty.

**Amendment 25**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 12 – point a**  
Directive 2009/18/EC  
Article 15 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that safety recommendations made by the investigation authorities are duly taken into account by the addressees and, where appropriate, are given an adequate follow-up in accordance with Union and international law.

*Amendment*

1. Member States shall ensure that safety recommendations made by the investigation authorities are duly taken into account by the addressees, ***in particular with a view to preventing future accidents***, and, where appropriate, are given an adequate follow-up in accordance with Union and international law.

**Amendment 26**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 15**

Directive 2009/18/EC

Article 17a – paragraph 1

*Text proposed by the Commission*

1. The Commission shall facilitate the development of capacities as well as the sharing of knowledge within and between the investigation authorities through the provision of training on new legal and technological developments, specific techniques and tools and technologies relating to ships, their equipment and operations.

*Amendment*

1. The Commission ***and the European Maritime Safety Agency (EMSA)*** shall facilitate the development of capacities as well as the sharing of knowledge within and between the investigation authorities through the provision of ***regular training sessions and certifications*** on new legal and technological developments, specific techniques and tools and technologies relating to ships, their equipment and operations.

**Amendment 27**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 15**

Directive 2009/18/EC

Article 17a – paragraph 2

*Text proposed by the Commission*

2. Upon request of the investigation authorities of the Member States, and assuming that no conflict of interest arises, the Commission shall provide operational support to these Member States in the

*Amendment*

2. Upon request of the investigation authorities of the Member States, and assuming that no conflict of interest arises, the Commission ***and EMSA*** shall provide operational ***and technological*** support to

conduct of their safety investigations. Such support include the provision of specialised analytical tools or equipment, as well as expertise.

these Member States in the conduct of their safety investigations. Such support include the provision of specialised analytical tools or equipment, as well as expertise.

## Amendment 28

### Proposal for a directive

#### Article 1 – paragraph 1 – point 15

Directive 2009/18/EC

Article 17a – paragraph 2a (new)

*Text proposed by the Commission*

*Amendment*

***2a. The Commission shall provide EMSA with the necessary and sufficient means to organise dedicated training to investigation authorities on the use of investigative technologies, equipment and on new technologies related to safety aspects of digitalisation and sustainable developments in maritime transport.***

## Amendment 29

### Proposal for a directive

#### Article 1 – paragraph 1 – point 17 – introductory part

*Text proposed by the Commission*

*Amendment*

(17) *in* Article 20 ***the fourth paragraph*** is replaced by the following:

(17) Article 20 is replaced by the following:

(32009L0018)

## Amendment 30

### Proposal for a directive

#### Article 1 – paragraph 1 – point 17

Directive 2009/18/EC

Article 20 – paragraph 1

*Present text*

*Amendment*

The Commission ***may update*** definitions in this Directive, ***and*** the references made to ***Community*** acts and to IMO instruments

The Commission ***shall adopt delegated acts in accordance with Article 20a to amend non-essential elements of*** this

*in order to bring them into line with Community or IMO measures* which have entered into force, subject to observance of the limits of this Directive.

Directive *by updating the definitions and Annexes in order to align them with changes to the relevant IMO instruments, as well as to update* the references made to *the relevant* IMO instruments which have entered into force, subject to observance of the limits of this Directive.

(32009L0018)

### Amendment 31

#### Proposal for a directive

#### Article 1 – paragraph 1 – point 17

Directive 2009/18/EC

Article 20 – paragraph 2

*Present text*

*Amendment*

*Those measures, designed to amend non-essential elements of this Directive, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).*

*deleted*

(32009L0018)

### Amendment 32

#### Proposal for a directive

#### Article 1 – paragraph 1 – point 17

Directive 2009/18/EC

Article 20 – paragraph 3

*Present text*

*Amendment*

*Acting in accordance with the same procedure, the Commission may also amend the Annexes.*

*deleted*

(32009L0018)

### Amendment 33

#### Proposal for a directive

#### Article 1 – paragraph 1 – point 17 a (new)

*Text proposed by the Commission*

*Amendment*

**(17a) the following Article 20a is inserted:**

**‘Article 20a**

***Exercise of the delegation***

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Article 20 shall be conferred on the Commission for an indeterminate period of time from [date of entry into force].***
- 3. The delegation of power referred to in Article 20 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***
- 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law Making of 13 April 2016.***
- 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***
- 6. A delegated act adopted pursuant to Article 20 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European***



*Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'*

#### **Amendment 34**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 18**

Directive 2009/18/EC

Article 23 – paragraph 1

##### *Text proposed by the Commission*

The Commission shall by [OP: Please insert a date: **ten** years from the date of entry into force of this amending Directive] submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive.

##### *Amendment*

The Commission shall by [OP: Please insert a date: **five** years from the date of entry into force of this amending Directive] submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive, **and, if necessary, propose further measures in the light of the recommendations set out therein, taking into consideration the possibility for mandatory accident investigation for fishing vessels below 15 meters to be included in the scope of this Directive.**

#### **Amendment 35**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 19 a (new)**

Directive 2009/18/EC

Annex II – point 30 a (new)

##### *Present text*

##### *Amendment*

**(19a) In Annex II, point 30 a is added:**

**(30a) Container lost at sea**

(32009L0018)